

REMARKS

Statement of the Substance of the Interview

The Applicant wishes to thank the Examiner for his courteousness in conducting a telephonic interview with the Applicant's representatives on February 2, 2005. Pursuant to 37 C.F.R. § 1.133(b) and M.P.E.P. § 713.04, the Applicant provides this Statement of Substance of the Interview. This statement is provided in addition to the Interview Summary. A copy of the Interview Summary is attached hereto as "Exhibit A."

Prior to the telephonic interview, Applicant submitted to the Examiner "Proposed Claim Amendments" for Applicant's Claim 1. The proposed amendments to Claim 1 that were the subject of the telephonic interview are the same as the amendments submitted herewith and that appear on page 3 of this Response in the **Listing of the Claims**.

Applicant began the discussion by noting that the proposed amendment to Claim 1 includes the limitation "adjustable." Furthermore, among the items of discussion during the interview was Applicant's strong contention that the Examiner's main reference, U.S. Patent No. 4,669,688 to Itoh et al. (hereinafter, "Itoh et al."), neither anticipates nor obviates the claims of Applicant's invention. The Applicant pointed out that Itoh et al. do not disclose, teach, or suggest a second jaw having at least two notches. Furthermore, Applicant pointed out that Itoh et al. fail to disclose, teach, or suggest a tension strap having at least one through-aperture having an inner edge through which the second jaw is able to pass, the inner edge of the through-aperture releasably engaging at least one of the notches upon passing the first end of the second jaw through the through-aperture, wherein the notches correspond to differing levels of clamp force. Applicant further explained that in Itoh et al., the notch is engaged *without* the jaw or

protrusion extending *through* the tension strap, which are essential elements of the previous version of the claims and the currently amended version of the claims. The Examiner asked the Applicant to clarify what is meant by "clamp force" and the Applicant explained that clamp force refers to the amount of force exerted to hold the objects in the clamp in place. The Applicant referred Examiner to page 4 of the Specification, which supports the Applicant's definition of "clamp force." The Examiner then agreed with the Applicant that Itoh et al. do not disclose a second jaw with at least two notches, and that further, Itoh et al. do not disclose a tension strap with a through-aperture through which an end of the second jaw passes. The Examiner then raised three additional references, U.S. Patent No. 5,725,185 to Auclair, U.S. Patent No. 5,367,750 to Ward, and U.S. Patent No. 5,305,978 to Current. Each of these references was previously raised in the Office Actions as prior art made of record. Applicant pointed out that, similarly to Itoh et al., none of these references disclose, teach or suggest a clamp comprising a tension strap having a through-aperture through which an end of a jaw is able to pass. Examiner then acknowledged this distinction.¹

The Examiner noted that he would have to conduct an additional search. Applicant then respectfully requested that, in light of the need for the additional search, Examiner make this a Non-final Office Action, to help offset some of the financial burdens to the Applicant, who is a sole-inventor.

Before the interview concluded, the Examiner referred Applicant to U.S. Publication No. 2002/0096546 to Bogoslofski (hereinafter, "the Bogoslofski publication"). Specifically,

¹ Notably, the Examiner failed to include the distinction regarding the through aperture of the tension strap in the interview summary attached hereto as Exhibit A.

Examiner referred Applicant to Figures 4 and 9 of the Bogoslofski publication. Applicant responded that in contrast to Applicant's proposed amended Claim 1, the Bogoslofski publication fails to disclose a second jaw having at least two notches. Further, Applicant noted that the Bogoslofski publication does not disclose a tension strap having a through aperture. Applicant then stated that further review of the reference would be necessary.²

The Examiner agreed to send a Summary of the Telephonic Interview and an Advisory Action upon receiving a timely submission from the Applicant.

In conclusion, the Interview Summary issued by the Examiner should be clarified because, while Applicant agrees that "none of the cited prior art teaches 'at least two notches' as cited in the proposed Claim 1," as the Examiner stated in the Interview Summary, Applicant respectfully further submits that none of the cited prior art teaches a tension strap having at least one through-aperture through which the second jaw is able to pass.

Response

Applicant has amended the paragraph beginning on page 3, line 30 of the Specification to correct a typographical error. Support for this amendment is found in the application and no new matter is added.

Claims 1-9 are currently pending. Claims 1-9 have been rejected. Applicant has amended Claim 1 for purposes of clarity only and not to distinguish the claimed invention from the prior art. Respectfully, the Applicant submits that even the prior version of the claims recited an invention that was not disclosed or taught in the prior art. The subject matter of the amended

² A detailed discussion of the Bogoslofski publication is provided below.

claims is supported by the application and no new matter is added. Reconsideration is respectfully requested.

Applicant respectfully reminds the Examiner that the Bogoslofski publication is not a reference under 35 U.S.C. § 102(b) because the reference was published on July 25, 2002, and therefore was not published more than one year prior to the filing date of Applicant's application for patent, June 27, 2003.

Applicant further points out that the Bogoslofski publication can neither anticipate nor obviate Applicant's claimed invention because the Bogoslofski publication does not teach a clamp having two jaws. Additionally, the Bogoslofski publication does not teach a second jaw having at least two notches, as is claimed in Applicant's amended Claim 1. Finally, the Bogoslofski publication does not teach a tension strap having at least one through-aperture through which an end of a second jaw passes, thereby allowing the tension strap to achieve adjustability by engaging with at least two notches on the second jaw, as is claimed by Applicant.

Thus, all of the claim limitations of Applicant's claimed invention are neither disclosed in the Bogoslofski publication nor are they present in any combination of references. Therefore, Applicant respectfully submits that the patent application and the claims, as amended, are in a condition for allowance. Accordingly, reconsideration of all rejections is respectfully requested. Allowance of all claims at an early date is solicited.

Applicant would appreciate the courtesy of a telephone call should the Examiner have any questions or comments with respect to this response or the claim language for purposes of efficiently resolving same.

Serial No. 10/608,735
Amdt. dated February 10, 2005
Reply to Office Action of December 20, 2004

The Commissioner is hereby authorized to charge Deposit Account No. 03-2026 for any fees associated with this Amendment and Response.

Respectfully submitted,

By: _____
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Exhibit A



Patent Technology Center 3600

Facsimile Transmission

To: Name: Alicia Passerin
 Company:
 Fax Number: 412 209 1987
 Voice Phone:

From: Name: Joey Wujciak
 Official Fax Number: (703) 872-9326
 Official After Final Fax Number: (703) 872-9327
 Voice Phone:

37 C.F.R. 1.6 sets forth the types of correspondence that can be communicated to the Patent and Trademark Office via facsimile transmissions. Applicants are advised to use the certificate of facsimile transmission procedures when submitting a reply to a non-final or final Office action by facsimile (37 CFR 1.8(a)).

Fax Notes:

Date and time of transmission: Wednesday, February 09, 2005 12:05:34 PM
Number of pages including this cover sheet: 03

Interview Summary	Application No.	Applicant(s)	
	10/608,735	POLAK ET AL.	
	Examiner	Art Unit	
	Alfred Joseph Wujciak III	3632	

All participants (applicant, applicant's representative, PTO personnel):

(1) Alfred Joseph Wujciak III. (3) Alicia Passerin.
(2) John Monocello. (4) _____.

Date of Interview: 02 February 2005.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: proposed claim 1.

Identification of prior art discussed: US Patent # 4,669,688 to Itoh et al., US Patent # 5,367,750 to Ward, US Patent # 5,725,185 to Auclair, US Patent # 5,305,978 to Current, US Patent Application Publication # 2002/0096546 to Bogoslowski.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The applicant and examiner agree that none of cited prior art teaches "at least two notches" as cited in the proposed claim 1 and that the examiner will do additional searching.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.